



HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

**THE CITY OF NEW YORK
LAW DEPARTMENT**
100 CHURCH STREET
NEW YORK, NY 10007

JAMES R. MURRAY
Assistant Corporation Counsel
Phone: (212) 356-3549
Fax: (212) 356-2372
jamurray@law.nyc.gov

May 19, 2023

BY ECF

Honorable Analisa Torres
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Adama Bah v. City of New York, et al.*
20 Civ. 263 (AT) (KHP)

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney for Defendants City of New York, City of New York, Sergeant Marilyn Aguirre, and Lieutenant Charmaine Pilgrim ("Defendants") in the above-referenced matter. Defendants write with Plaintiff's consent to respectfully request permission to brief their anticipated partial summary judgment motion in accordance with the schedule that the parties jointly proposed to the Honorable Katherine H. Parker on May 19, 2023. ECF No. 77.

A. Background

On March 28, 2023, The Honorable Judge Parker conducted a case management conference, during which Plaintiff indicated that he might wish to pursue expert discovery. ECF No. 73. However, Plaintiff did not specify what kind of expert discovery he might seek. After the March 28, 2023 conference, Judge Parker issued an Order directing the parties to file a status letter by May 19, 2023 stating, among other things, whether Plaintiff intended to pursue expert discovery. ECF No. 74. In the event Plaintiff did not intend to pursue expert discovery, the March 28, 2023 Order further directed the parties to either propose a summary judgment briefing schedule or indicate that they intend to proceed to trial. *Id.* The following day, the Court issued an order directing the parties to file any pre-motion letters in advance of summary judgment by May 19, 2023. ECF No. 76. On May 19, 2023, the parties filed a joint letter in which they informed Judge Parker that Plaintiff did not intend to pursue expert discovery and proposed a

briefing schedule for Defendants' anticipated partial summary judgment motion, which is replicated below. ECF No. 77.

B. Request for Briefing Schedule

Defendants now request permission to brief their anticipated summary judgment motion in accordance with the schedule proposed to Judge Parker. Before today, Defendants did not know whether Plaintiff intended to pursue expert discovery or what the nature of any expert discovery would be. If Plaintiff had intended to pursue expert discovery into issues pertaining to liability and/ or in furtherance of her own motion, then the parties would undoubtedly have needed to complete expert discovery before briefing summary judgment. Because Defendants only learned today that Plaintiff does not intend to pursue expert discovery, they could not have filed a pre-motion letter today in accordance with Rule III(C)(iii) of the Court's Individual Practices in Civil Cases, which requires the movant to attach the non-movant's Local Rule 56.1 counterstatement to its letter. Because it would have been impracticable for Defendants to file a pre-motion letter by today, Defendants respectfully request permission to file their anticipated summary judgment motion in accordance with the briefing schedule jointly proposed by the parties in accordance with Judge Parker's March 28, 2023 Order. ECF Nos. 74 and 77.

C. Proposed Briefing Schedule

<u>Event</u>	<u>Deadline</u>
Deadline for Defendants to serve their statement of material facts pursuant to Local Rule 56.1	June 9, 2023
Deadline for Plaintiff to serve his responses and objections to Defendants' Local Rule 56.1 statement	June 30, 2023
Deadline for Defendants to file their pre-motion letter before Judge Torres	July 14, 2023
Deadline for Plaintiff to file her response to Defendants' pre-motion letter	July 28, 2023
Deadline for Defendants to file their moving papers	August 28, 2023
Deadline for Plaintiff to file his opposition	September 27, 2023
Deadline for Defendants to file their reply	October 11, 2023

Thank you for your consideration herein.

Respectfully submitted,

James R. Murray /s

James R. Murray
Assistant Corporation Counsel
Special Federal Litigation Division
100 Church Street, Room 3-183
New York, New York 10007
(212) 356-2372
jamurray@law.nyc.gov

CC: By ECF (all counsel of record)